

REMARKS

Reconsideration of the above-identified patent application, as amended, is respectfully requested.

Applicant acknowledges the previously submitted Declarations filed under 37 C.F.R. 1.131 do not discuss the embodiment wherein the scenting agent is directly added onto a surface before the paint dries. As a result, applicant has herein canceled claims 12, 15, 18, 21 and 24 which are the claims stating that the scenting agent is directly added onto a surface before the paint dries.

The previously submitted Declarations have been found to be unpersuasive. As a result, Applicant submits herewith an amended Declaration of Bill Oltman filed under 37 C.F.R. 1.131 along with the Declaration of Dale Ann Mahan that we believe cooperatively make clear that the cited U.S. patents issued to Walker and Maleeny should not be considered due to applicants' earlier reduction to practice.

Referring to the amended Declaration of Bill Oltman, paragraph 7 has been amended to specifically detail all of the requirements in claim 1 which provides for the method used in April 2001 of making the long-lasting scented paint mixture. The particular scent chosen was a potpourri scent.

In support of the method detailed in paragraph 7, applicant has attached to the Amended Declaration photographs of the container having the scented agent that was actually used in practicing the method in April 2001. Photograph 1, as recited in paragraph 8 of the Declaration, shows an Arm & Hammer carpet deodorizer container with a potpourri scent. Mr. Oltman has discovered the actual container utilized in practicing the method in April 2001. Further, at the bottom of the front surface of the

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container shown in photograph 1 is a swatch of paint that spilled onto the container during the painting of Unit 1601 in April 2001. Further, on the bottom wall of the container shown in photograph 2, the bar code indicates the number 332001 which means the product was produced March 3, 2001. The container was obtained shortly thereafter in order to use the ingredients in practicing the method in April 2001.

In support of Bill Oltman's Declaration, submitted herewith is a new Declaration of Dale Ann Mahan. As recited in the Declaration, she was responsible for cleaning the apartments at The Grande Reserve at Geist and specifically provided the container of carpet deodorizer to Bill Oltman that is shown in the photographs 1 and 2 attached to his Declaration. Further, she states that in April 2001, Bill Oltman mixed the carpet deodorizer shown in photographs 1 and 2 with paint so as to disperse or distribute the deodorizer through the paint. She further states that the scented paint was then used to paint the walls of Unit 1601 at which point the previously existing smoke smell disappeared.

Referring to the Examiner's comments on page 5 of the latest Office Action, it is believed that all of the questions have been addressed by the enclosed Declarations. More specifically, the actual words of claim 1 have been incorporated into Bill Oltman's Declaration so that the language relating to the mixing for agitating the paint components to form a dispersion are specifically detailed. Next, the claims relating to the scenting agent applied directly to the surface before the paint dries have been canceled. While although Bill Oltman does not have lab notebooks to support his allegations, he has found the actual dated container of the scenting agent used in practicing the claimed method. The container shown in the photographs provides collaborating evidence to support his

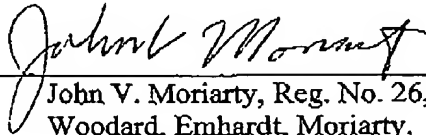
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allegations. Next, Bill Oltman's Declaration has been amended to state that the experimentation that was continued to develop various scents and increase the lasting affect of the scent occurred in April 2001. It is therefore clear that the present claims are drawn to the methods that were developed from the further experimentation having a reduction to practice during April 2001. In regards to the comments of the Examiner that the claims do not require a potpourri scent, applicant points out that the claims do require a scenting agent which is a general term to describe a scenting agent such as the potpourri deodorizer scenting agent shown in the photograph 1. Bill Oltman states in paragraph 7 of the Amended Declaration, the potpourri scent was actually the scent used in the long lasting paint developed as detailed in the present claims.

Regarding the Declarations of Irwin and Rahe, they were not aware of actually how the scented paint was developed. On the other hand, both Declarations do provide supporting evidence that at least in April 2001 Bill Oltman used a scented paint to paint Unit 1601 eliminating the smoke smell from the Unit. The Irwin and Rahe Declarations therefore provide collaborating evidence to support Bill Oltman's allegations.

For the above reasons, applicant believes the application is in condition for allowance and such action by the Examiner is respectfully requested.

Respectfully submitted,

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